

## REMARKS

Reconsideration of the above-identified patent application in view of the amendment above and the remarks below is respectfully requested.

Claim 22 has been canceled in this paper. Claims 18-21 and 23-26 have been amended in this paper. No new claims have been added in this paper. Therefore, claims 10-21 and 23-28 are pending and are under active consideration.

Claims 10-17 have been allowed.

Claims 18-21, 23 and 26 stand rejected under 35 U.S.C. § 103(a) "as being unpatentable over Lankton (3,733,657)." In support of the rejection, the Patent Office states the following:

In the reference of Lankton, there is provided a fastener clip shown in Figure 9, including individual fasteners attached together by a rod/elongated runner 8 combined with respective connecting stubs 10. Each fastener includes a thin elongated filament 6 and cross bars 2, 4' on opposite ends of the filament.

The second cross bars (4') are shown in Figure 9 as including protrusions/posts which are connected to each other (for adjacent fasteners) at necks 28, thereby connecting together adjacent fasteners. In [an] alternative way of interpreting the structure, each protrusion together with half a neck constitutes a post, which is connected to the adjacent post (the opposed protrusion and neck half).

The first cross bar (2), located closest to the runner, inherently has a length - the result effective variable/general condition - as shown in Figure 9. Additionally, the clip of fasteners inherently include a spacing pitch between the individual fasteners. Finally, the filament inherently includes a filament length. Although the reference does not disclose the particular length of cross bar, spacing pitch between the fasteners, or the length of filament as claimed by Applicant, the cross bar, the fastener spacing, and the filament length of Lankton would appear to function in the same manner as those claimed by particular value, and Applicant has not shown objective evidence that this is not the case. It has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA

1980). Moreover, it has also been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233. Furthermore, the particular capacity-related size of an element already taught in the art generally will not support patentability. See In re Rose, 105 USPQ 237, 240 (CCPA 1955). For these reasons it would have been obvious to have made the cross bar of Lankton with any desired length which will work, to have made the spacing of fasteners of Lankton with any desired pitch that will work, and to have made the filament of Lankton with any desired length that will [work] including the length that has been claimed by Applicant.

Applicants respectfully traverse the subject rejection. Claims 19-21 and 23 have been amended herein to depend from claim 25. In view of the Patent Office's indication in the outstanding Office Action that claim 25 is allowable, Applicants respectfully submit that claims 19-21 and 23 are allowable based at least on their respective dependencies from claim 25.

Claim 18 has been amended herein and now recites "[a] fastener clip comprising:

- a. a first fastener, said first fastener comprising a flexible filament having a first cross bar at a first end thereof, said first cross bar having a length of approximately 0.11 inch;
- b. a second fastener, said second fastener comprising a flexible filament having a first cross bar at a first end thereof;
- c. said first fastener and said second fastener being arranged in a parallel, side-by-side, spaced relationship;
- d. an elongated runner bar spaced apart from the first cross bars of said first and second fasteners;
- e. a first stub connecting said elongated runner bar to said first cross bar of said first fastener;

f. a second stub connecting said elongated runner bar to said first cross bar of said second fastener; and

g. a first connector post connecting said first cross bar of said first fastener to said first cross bar of said second fastener.”

Claim 18 is not unpatentable over Lankton for at least the reason that Lankton does not teach or suggest a fastener clip comprising, among other things, first and second fasteners, each fastener comprising a first cross bar connected to a common runner bar by a respective stub, said first cross bar of said first fastener being approximately 0.11 inch in length, said first cross bar of said first fastener being connected to said first cross bar of said second fastener by a first connector post. Instead, Lankton discloses a fastener clip in which the cross bars that are connected to the runner bar by stubs are **not otherwise connected to one another in any fashion, let alone by connector posts**. Kato, which is relied upon by the Patent Office in the rejection below to provide this missing teaching, fails to cure all of the deficiencies of Lankton. This is because Kato does not disclose a fastener clip in which the cross bars that are connected to the runner bar are joined to one another through connector **posts**; instead, Kato discloses a fastener clip in which the cross bars that are connected to the runner bar are joined directly to one another by means of facing apices in the cross bars, themselves. In fact, Kato clearly teaches away from the use of connector **posts** to interconnect cross bars of adjacent fasteners as Kato teaches that such posts result in the formation of a whisker-like projection when the thus-joined fasteners are separated from one another.

Claim 26 has been amended herein and now recites “[a] fastener clip comprising:

a. a first fastener, said first fastener comprising a flexible filament having a first cross bar at a first end thereof;

b. a second fastener, said second fastener comprising a flexible filament having a first cross bar at a first end thereof;

c. said first fastener and said second fastener being arranged in a parallel, side-by-side, spaced relationship at a pitch of approximately 0.032 inch;

d. an elongated runner bar spaced apart from the first cross bars of said first and second fasteners;

e. a first stub connecting said elongated runner bar to said first cross bar of said first fastener, wherein said first stub connects said elongated runner bar to said first cross bar of said first fastener in an off-center manner; and

f. a second stub connecting said elongated runner bar to said first cross bar of said second fastener.”

Claim 26 is not unpatentable over Lankton for at least the reason that Lankton does not teach or suggest a fastener clip that comprises, among other things, a first stub that connects an elongated runner bar to a first cross bar of a first fastener in an **off-center manner**. Instead, Lankton discloses a first stub that connects an elongated runner bar to a first cross bar of a first fastener in a **centered manner**.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

Claims 22, 24, 27 and 28 stand rejected under 35 U.S.C. § 103(a) “as being unpatentable over Lankton (3,733,657) as applied to claim 18, 23, or 26 above, and further in view of Kato (4,467,656).” In support of the rejection, the Patent Office states the following:

The connecting structures 26,28 (protrusions and necks) of Lankton (described above) promote separation of the fasteners from each other as desired (see col. 6, lines 18-51). Although Lankton does not disclose attaching the first cross bars to each other by posts

26,28 in the same manner as for the second fasteners, the reference of Kato at 1b and 7 suggests that plural fasteners 1-3 connected to a runner/rod may each be connected to adjacent fasteners of a clip/cluster by connecting together both the first cross bars (2) and the second cross bars/heads (1). This connection at both the cross bars apparently permits long clips/clusters of fasteners to be provided without causing excessive entanglement. Accordingly, it would have been obvious in view of Kato to have attached both the first and second cross bars of Figure 9 of Lankton. It would have been obvious in view of the teaching of Lankton to have used the protrusion and neck structure 26,28 for the reasons as disclosed by Lankton.

Insofar as the subject rejection pertains to claim 22, the rejection is moot in view of Applicants' cancellation herein of claim 22. Insofar as the subject rejection pertains to claims 24, 27 and 28, Applicants respectfully traverse the subject rejection.

Claim 24 is patentable over the applied combination of references for at least the same reasons given above in connection with the rejection of claim 18.

Claims 27 and 28 depend from claim 26. Claim 26 is patentable over Lankton for at least the reasons given above. Kato fails to cure all of the deficiencies of Lankton. Therefore, based at least on their respective dependencies from claim 26, claims 27 and 28 are patentable over Lankton in view of Kato.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

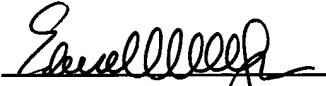
Claim 25 stands objected to "as being dependent on a rejected claim, but would be allowable if amended to include all of the limitations of the base claim and any intervening claim." In response to the subject objection, Applicants have rewritten claim 25 in independent form. Accordingly, the subject objection has been overcome and should be withdrawn.

In conclusion, it is respectfully submitted that the present application is now in condition for allowance. Prompt and favorable action is earnestly solicited.

If there are any fees due in connection with the filing of this paper that are not accounted for, the Examiner is authorized to charge the fees to our Deposit Account No. 11-1755. If a fee is required for an extension of time under 37 C.F.R. 1.136 that is not accounted for already, such an extension of time is requested and the fee should also be charged to our Deposit Account.

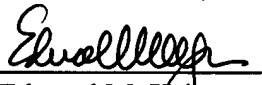
Respectfully submitted,

Kriegsman & Kriegsman

By:   
Edward M. Kriegsman  
Reg. No. 33,529  
665 Franklin Street  
Framingham, MA 01702  
(508) 879-3500

Dated: March 29, 2005

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 29, 2005.

  
Edward M. Kriegsman  
Reg. No. 33,529  
Dated: March 29, 2005